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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,147	09/10/2003	Stephen Bruck	BAE-11002/15	3052
25006 7590 08/07/2008 GIFTORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021				
EXAMINER				
IDELL, JOSEPH T				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/659,147

## Applicant(s)

BRUCK ET AL.

## Examiner

Joseph F. Edell

## Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CD/CD)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### **DETAILED ACTION**

In view of the supplemental appeal brief filed on 06 July 2007, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/DAVID DUNN/

Supervisory Patent Examiner, Art Unit 3636.

The amendment after final rejection filed on 28 June 2006 has been entered. Please note that the Advisory Action of 13 July 2006 incorrectly set forth that the amendment after final rejection should not have been entered because the amendment to claim 13, line 7 raised new issues that would require further consideration and/or

search and was not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal. The amendment after final rejection to claim 1, line 12 and to claim 13, line 17 should have been entered. While the amendment to claim 13, lines 7,10 is noncompliant under 37 C.F.R. 1.121(c) for underlining a previously entered claim amendment, this amendment has been entered in the interest of compact prosecution.

### ***Drawings***

1. The drawings were received on 28 June 2006. These drawings are unacceptable. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 6 and 8. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,547,254 to Hoshihara.

Hoshihara discloses a seatback recliner including all the limitations recited in claims 1-4. Hoshihara shows a seatback recliner having a frame with a seat bottom 21 (see Fig. 1) and a seatback arm 34 pivotally secured to the frame, a lower arcuate surface of the seatback arm being defined by a first plurality of serrations, a pawl 30 with an elongated body with a first end hingedly secured to the frame and incorporating a second plurality of serrations, an interior aperture 31 defined by an enclosed inner wall configuration, a cam 23 rotatably secured to the frame in seating fashion within the inner wall configuration and being completely contained within the interior aperture associated with the pawl, a lever 26 pivotally secured to the cam and extending from the frame, a first plurality of projections on the inner wall configuration of the pawl forming three co-acting projections, and a second plurality of projections of the cam co-acting with the first plurality of projections between first and second rotated directions and forming three co-acting projections wherein second plurality of serrations extending along an upper arcuate surface of the pawl extending in opposing fashion relative to the lower arcuate surface of the seatback arm, and the exterior configuration of the cam

engages the inner wall configuration of the pawl to bias the second plurality of serration in abutting contact against the first plurality of serrations and being rotatable in a second direction to cause the pawl to hingedly disengage from abutting contact with the seatback arm, the inner and outer plates sandwich the pawl, cam, and seatback,

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshihara in view of U.S. Patent No. 4,875,735 to Moyer et al.

Hoshihara discloses a recliner mechanism that is basically the same as that recited in claims 5-13 except that the frame lacks inner and outer plates, as recited in the claims. See Figures 1-4 of Hoshihara for the teaching that the mechanism has a main pivot pin 35 extending through aligned apertures in the frame, a main coil spring 36 secured to an exterior face of the frame and biasing the seatback arm in a forwardly pivoting direction, a cam pivot pin 25 extending through a central aperture in the cam, an aperture in the frame, and engaging the lever, a secondary coil spring 27 securing to an exterior face of the frame and biasing the lever counter-clockwise, and a rivet 29 seating in an aperture of the pawl and an aperture of the frame, a rivet 35 with a projecting end engaging an end of the main coil spring, and an extending end of the

second coil spring engaging an angled projection of the frame. Moyer et al. show a recliner mechanism similar to that of Hoshihara wherein the mechanism has a pawl 42 (see Fig. 1), a cam 46, a seatback 15, and a frame with an inner plate and a spaced apart outer plate sandwiching therebetween the pawl, the cam, and the seatback such that the plates have aligning apertures and spacers bushings. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the recliner mechanism of Hoshihara such that the frame has an inner plate and a spaced apart outer plate sandwiching therebetween the pawl, the cam, and the seatback wherein the plates having aligning apertures and a pair of spacer bushings engaging plate apertures, such as the recliner mechanism disclosed in Moyer et al. One would have been motivated to make such a modification in view of the suggestion in Moyer et al. that the sandwiched frame configuration provide fastened, spaced apart housing for the seatback reclining components, and in view of the knowledge generally available to one skilled in the art that a sandwiched plate configuration provide a rigid enclosure housing seatback rotational components.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3636

/Joseph F Edell/

Primary Examiner, Art Unit 3636

August 8, 2008